



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 3824-00
6 November 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 26 January 1979 for four years at age 17. The record reflects that you served without incident until 23 March 1979 when you received nonjudicial punishment (NJP) for assault. Thereafter, you were advanced to PFC (E-2) and served for the next seven months without incident. However, during the 16 month period from February 1980 to June 1981 you received six NJPs and were convicted by a special court-martial. Your offenses consisted of three instances of failure to obey a lawful order, three instances of disrespect, two brief periods of unauthorized absence (UA), making a false official statement, altering the birth date on a military identification card, disobedience, and use of provoking words.

On 5 January 1982 you were convicted by a second special court-martial of disrespect towards an officer, two specifications of disobedience of an officer's order, three specifications of

failure to obey a lawful order, use of provoking words, and unlawfully entering a dispensary. You were sentenced to confinement at hard labor for two months and a bad conduct discharge. The Navy Clemency Board denied restoration to duty on 22 April 1982 and the Navy Board of Review affirmed the findings and the sentence on 27 August 1982. You received the bad conduct discharge on 9 December 1982.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been nearly 18 years since you were discharged. The Board noted your contention to the effect that the misconduct which led to your second court-martial occurred when a SGT (E-5) hit you and you defended yourself and another SGT reported that you assaulted a noncommissioned officer. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of seven NJPs and two special courts-martial convictions. Your contention is neither supported by the evidence of record nor by any evidence submitted in support of your application. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director